

DAF

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
COREY FRANKLIN,

Petitioner,

-against-

"LARKIN,"

Respondent.
-----X

ORDER

12-CV-3628 (SJF)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUL 31 2012 ★

LONG ISLAND OFFICE

FEUERSTEIN, United States District Judge:

On July 18, 2012, incarcerated pro se petitioner Corey Franklin ("Franklin" or "petitioner") filed this petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner seeks to challenge a judgment of conviction against him issued upon a jury verdict finding him guilty of murder in the second degree, in violation of Penal Law § 125.25(1).

Petitioner initially appealed the judgment of conviction to the Appellate Division, Second Department. By order dated May 10, 2004, the Appellate Division affirmed the judgment of conviction and sentence. See People v. Franklin, 7 A.D.3d 966, 776 N.Y.S.2d 596 (2d Dep't 2004). The New York Court of Appeals denied leave to appeal on November 11, 2004. See People v. Franklin, 3 N.Y.3d 756, 788 N.Y.S.2d 673 (2004).

On February 9, 2006, Franklin filed a petition in this Court seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. See Case No. 06-CV-0700, Docket Entry No. 1. By order dated March 19, 2009, the petition was denied in its entirety. See Case No. 06-CV-0700, Docket Entry No. 23. An appeal from that order was subsequently dismissed by the U.S. Court of Appeals for the Second Circuit. See Case No. 06-CV-0700, Docket Entry No. 28.

The Antiterrorism and Effective Death Penalty Act “allocates jurisdiction to the courts of appeals, not the district courts, to authorize successive habeas motions or applications.” Torres v. Senkowski, 316 F.3d 147, 151 (2d Cir. 2003). Accordingly, petitioner must move for authorization to pursue this successive petition for habeas relief in the United States Court of Appeals for the Second Circuit. See 28 U.S.C. § 2244(b)(3)(A).

In the interest of justice, the Clerk of Court shall transfer this petition to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 1631. Torres, 316 F.3d at 151-52 (citing Liriano v. United States, 95 F.3d 119, 121-23 (2d Cir. 1996)). This order closes this case. If the Second Circuit authorizes petitioner to proceed in this matter, he shall move to reopen this docket number, 12-CV-3628.

IT IS SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: July 31, 2012
Central Islip, New York